

THIS IS THE ADOPTED RULE AND MAY BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS UNTIL SUCH TIME AS THE CODIFIED VERSION IS AVAILABLE FROM THE CODE REVISER'S OFFICE.

AMENDATORY SECTION (Amending WSR 99-15-095, filed 7/21/99, effective 8/21/99)

WAC 458-57-015 Valuation of property, property subject to estate tax, how to calculate the tax. (1) **Introduction.** This rule is intended to help taxpayers determine and pay the correct amount of estate tax with their state return. It explains the necessary steps for determining the tax, and provides examples of how the federal estate tax unified credit relates to the amount that must be reported on the state return. (If a nonresident decedent has property located within Washington at the time of death refer to WAC 458-57-025 to determine the amount of tax payable to Washington.)

(2) **Valuation.** The value of every item of property in a decedent's gross estate is its fair market value. However, the personal representative may elect to use the alternate valuation method under section 2032 of the 2001 Internal Revenue Code (IRC), and in that case the value is the fair market value at that date, including the adjustments prescribed in that section of the IRC.

The valuation of certain farm property and closely held business property, properly made for federal estate tax purposes pursuant to an election authorized by section 2032A of the 2001 IRC, is binding for state estate tax purposes.

(3) **Property subject to estate tax.** The estate tax is imposed on transfers of the taxable estate, as defined in section 2051 of the 2001 IRC.

(a) The first step in determining the value of the decedent's taxable estate is to determine the total value of the gross estate. The value of the gross estate includes the value of all the decedent's tangible and intangible property at the time of death. In addition, the gross estate may include property in which the decedent did not have an interest at the time of death. A decedent's gross estate for federal estate tax purposes may therefore be different from the same decedent's estate for local probate purposes. Sections 2031 through 2046 of the 2001 IRC provide a detailed explanation of how to determine the value of the gross estate. The following are examples of items that may be included in a decedent's gross estate and not in the probate estate:

(i) Certain property transferred by the decedent during the decedent's lifetime without adequate consideration;

(ii) Property held jointly by the decedent and others;

(iii) Property over which the decedent had a general power of appointment;

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(iv) Proceeds of certain policies of insurance on the decedent's life annuities; and

(v) Dower and curtesy of a surviving spouse or a statutory estate in lieu thereof.

(b) The value of the taxable estate is determined by subtracting the authorized exemption and deductions from the value of the gross estate. Under various conditions and limitations, deductions are allowable for expenses, indebtedness, taxes, losses, charitable transfers, and transfers to a surviving spouse. Sections 2051 through 2056A of the 2001 IRC provide a detailed explanation of how to determine the value of the taxable estate.

(4) **Imposition of Washington's estate tax.** A tax in an amount equal to the federal credit is imposed by RCW 83.100.030 upon the taxable estate of every decedent. Washington's estate tax is due in every case in which the ~~((federal))~~ gross estate tax exceeds the unified credit as specified in section 2010 of the 2001 IRC, and there is credit available to be taken, with the exception that all applicable federal estate tax credits are to be applied to the estate's ~~((federal))~~ tax liability before the state estate tax liability is computed. ~~((In no event will an estate pay more than the amount of the credit available to be taken.))~~

(a) The following tables ~~((is))~~ are taken from the 2001 IRC. ~~((It))~~ They show~~((s))~~ the maximum amount of federal credit available for state death taxes. The amount of federal credit computed is also the amount of Washington estate tax due.

(i)

Worksheet

Adjusted Taxable Estate

1. Taxable estate (from Tax Computation, WA Form REV 85-0046, Line 3) \$

2. Adjustment \$60,000

3. Adjusted taxable estate. Subtract line 2 from line 1. Use this amount to compute maximum credit for state death taxes in Table (ii).

(ii)

(A)--Taxable estate, equal to or more than	(B)--and, Taxable estate, less than	(C)--Base credit on amount in column (A)	(D)--Rate of credit on excess over amount in column (A) (AS A PERCENT)
\$ 0	\$ 40,000	\$ 0	0.0

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\$ 40,000	\$ 90,000	\$ 0	0.8
\$ 90,000	\$ 140,000	\$ 400	1.6
\$ 140,000	\$ 240,000	\$ 1,200	2.4
\$ 240,000	\$ 440,000	\$ 3,600	3.2
\$ 440,000	\$ 640,000	\$ 10,000	4.0
\$ 640,000	\$ 840,000	\$ 18,000	4.8
\$ 840,000	\$ 1,040,000	\$ 27,600	5.6
\$ 1,040,000	\$ 1,540,000	\$ 38,800	6.4
\$ 1,540,000	\$ 2,040,000	\$ 70,800	7.2
\$ 2,040,000	\$ 2,540,000	\$ 106,800	8.0
\$ 2,540,000	\$ 3,040,000	\$ 146,800	8.8
\$ 3,040,000	\$ 3,540,000	\$ 190,800	9.6
\$ 3,540,000	\$ 4,040,000	\$ 238,800	10.4
\$ 4,040,000	\$ 5,040,000	\$ 290,800	11.2
\$ 5,040,000	\$ 6,040,000	\$ 402,800	12.0
\$ 6,040,000	\$ 7,040,000	\$ 522,800	12.8
\$ 7,040,000	\$ 8,040,000	\$ 650,800	13.6
\$ 8,040,000	\$ 9,040,000	\$ 786,800	14.4
\$ 9,040,000	\$ 10,040,000	\$ 930,800	15.2
\$ 10,040,000	\$ 1,082,800	16.0

(b) The following are examples of how the estate tax is applied. These examples should be used only as a general guide. The tax status of other situations must be determined after a review of all of the facts and circumstances.

~~((i) A married woman dies, leaving her husband and children surviving. Her taxable estate, computed after allowance of the marital deduction, is \$700,000. The adjusted taxable estate is \$640,000 (\$700,000 - \$60,000). The Washington state estate tax due is \$18,000 (the base credit shown in column (C) on the first \$640,000).~~

~~(ii) A married man dies with all of his property passing to his wife, outright under a community property agreement. His marital deduction under section 2056 of the IRC reduces his~~

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~~federal taxable estate to zero. Because his taxable estate is zero, no Washington estate tax is due.~~

~~(iii) The federal taxable estate of a recent decedent is \$100,000. The adjusted taxable estate is \$40,000 (\$100,000 - \$60,000). No Washington estate tax is due. Section 2011 of the IRC provides for no credit unless the adjusted taxable estate exceeds \$40,000.~~

~~(iv) One year before a widower's death, he makes an absolute transfer of almost all of his property to his son. The widower's federal tax liability was computed on the basis of an "adjusted taxable gifts" value of \$750,000 (the amount of the transfer to the son) and a taxable estate of \$3,000 (the remainder of the widower's estate). Since no federal credit is available on an estate valued at \$3,000, no Washington estate tax is due, and there is no Washington gift tax.~~

~~(v) A widow dies, leaving a taxable estate of \$290,000. The amount of tax payable to the state of Washington, equivalent to the federal death tax credit, is computed as follows: Taxable estate of \$290,000, less \$60,000, equals an adjusted taxable estate of \$230,000. The unified credit (IRC Section 2011) on the first \$140,000 is \$1,200. The credit for the \$90,000 increment (\$230,000 - \$140,000) is \$2,160 (2.4% of \$90,000). The total Washington estate tax liability is \$3,360 (\$1,200 + \$2,160).~~

~~(vi) A widower dies, leaving a taxable estate of \$678,000. The amount of tax payable to the state of Washington, equivalent to the federal credit for state death taxes (section 2011 of the IRC), is computed as follows: Taxable estate of \$678,000, less \$60,000, equals an adjustable taxable estate of \$618,000. The table in subsection (4)(a) of this rule shows that the federal credit for state death taxes on the first \$440,000 is \$10,000. The credit for the \$178,000 increment (\$618,000 - \$440,000) is \$7,120 (.04 x \$178,000). The total Washington estate tax liability appears to be \$17,120 (\$10,000 + \$7,120).~~

~~However, when the person responsible calculates the federal estate tax and files the federal estate tax return for this widower's estate, he/she is able to apply other applicable federal estate tax credits before any of the credit for state death taxes is applied. In the end, only \$10,360 of the credit for state death taxes is applied to the federal estate tax, which leaves no payment due on the federal return. Since the amount of state estate tax liability cannot exceed the amount of state death tax credit actually applied to the federal tax, the amount of state estate tax due on the state return is limited to \$10,360.)~~

(i) A married woman dies in the year 2002, leaving her husband and children surviving. Her taxable estate,

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computed after allowance of the marital deduction, is \$900,000. The adjusted taxable estate is \$840,000 (\$900,000 - \$60,000). The Washington state estate tax due is \$27,600 (the base credit shown in column (C) on the first \$840,000).

(ii) A married man dies with all of his property passing to his wife, outright under a community property agreement. His marital deduction under section 2056 of the 2001 IRC reduces his federal taxable estate below the applicable exclusion amount. Because his taxable estate is below the applicable exclusion amount, no Washington estate tax is due.

(iii) The federal taxable estate of a decedent is \$100,000 (before gifts are added, which place the estate into a taxable category). The adjusted taxable estate is \$40,000 for state estate tax purposes (\$100,000 - \$60,000). No Washington estate tax is due because section 2011 of the 2001 IRC provides for no credit unless the adjusted taxable estate exceeds \$40,000. *Gifts can push an estate into a taxable category.

(iv) A widow dies in 2003, leaving a taxable estate of \$725,000. The amount of tax payable to the state of Washington is computed as follows: Taxable estate of \$725,000 less \$60,000 equals an adjusted taxable estate of \$665,000. The state death tax credit (2001 IRC section 2011) on the first \$640,000 is \$18,000. The state death tax credit for the \$25,000 increment (\$665,000 - \$640,000) is \$1,200 (4.8% of \$25,000). The total Washington estate tax liability is \$19,200 (\$18,000 + \$1,200) however, the state estate tax cannot exceed the adjusted gross estate tax (line 14) which in this case would be \$9,250. Therefore, the state estate tax would be \$9,250 because it is the lower of the two. This occurs in a small window over the applicable exemption threshold amount.